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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

SHAWN C. NORTHRUP, :  
: Plaintiff, :  
: v. : Case No:  
: : 3:12-CV-01544-JJH  
: : Judge Helmick  
CITY OF TOLEDO, et al., :  
: Defendants. :  
- - -

Deposition of ALAN ROSE, a Witness herein,  
called by the Plaintiff as upon Cross Examination  
pursuant to the Federal Rules of Civil Procedure,  
taken before Vicki L. Plant, Court Reporter and  
Notary Public in and for the State of Ohio, at the

offices of City of Toledo Department of Law, One

Government Center, Suite 2250, Toledo, Ohio, on

Thursday, February 6, 2014, commencing at 1:30 p.m.

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I N D E X

Deposition of ALAN ROSE:

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MR. MADIGAN..... 8 16

- - -

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 LYDY & MOAN LTD.:

4 Daniel T. Ellis

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Sylvania, Ohio 43560 419-517-7741

6 On behalf of the Defendants:

7 CITY OF TOLEDO DEPARTMENT OF LAW:

8 John T. Madigan

One Government Center, Suite 2250

Toledo, Ohio 43604 419-245-1020

9 - - -

10 ALAN ROSE,

11 being first duly sworn, as hereinafter certified,

12 testified and said as follows:

13 CROSS EXAMINATION

14 BY MR. ELLIS:

15 Q Mr. Rose, my name is Dan Ellis, and I'm an  
16 attorney for Shawn Northrup. This deposition is an  
17 opportunity for me to ask you some questions about  
18 the facts and your knowledge about what occurred  
19 that day, okay?

20 A Okay.

21 Q Have you ever had a deposition taken before?

22 A Yes.

23 Q Under what circumstances?

24 A I believe it was about 2004.

25 Q What was the purpose of the deposition?

1 A I had a motorcycles accident. A woman pulled out  
2 in front of me, I hit her, it was her fault, and  
3 there was a deposition concerning that.

4 Q Have you ever had any others?

5 A No.

6 Q You understand that everything you say will be  
7 recorded by the court reporter?

8 A Yes.

9 Q If you don't hear a question, if you don't  
10 understand a question, will you let me know so I  
11 can either repeat it or rephrase it?

12 A Okay.

13 Q Do you understand you've given an oath to tell the  
14 truth?

15 A Yes.

16 Q And that you should answer the questions fully,  
17 accurately, and truthfully just as if you're  
18 sitting in front of a judge or jury?

19 A Yes.

20 Q If at any time you realize that one of your  
21 earlier answers is incorrect, will you let me  
22 know?

23 A Yes.

24 Q And I'll give you an opportunity to supplement and  
25 correct it. If you don't know or don't remember

1 information necessary to answer the questions,  
2 just tell me. Do you understand these  
3 instructions?

4 A Yes.

5 Q Are you on any medications or mood altering drugs  
6 that would prevent you from testifying fully,  
7 accurately, and truthfully today?

8 A No.

9 Q Do you have any illness that would prevent you  
10 from testifying fully, accurately, and truthfully  
11 today?

12 A No.

13 Q Can you tell me what you did to prepare for  
14 today's deposition.

15 A What I did to prepare?

16 Q Yes.

17 A Nothing.

18 Q Have you discussed the subject matter of this  
19 deposition with any party other than your  
20 attorney?

21 A No.

22 MR. MADIGAN: Correct, that he  
23 discussed it with me.

24 A I wanted to know --

25 Q Have you talked with Mr. Madigan then?

1 A Yes, we have talked.

2 Q Can you tell me where that conversation took  
3 place.

4 A It took place here.

5 Q When did that take place?

6 A Today.

7 Q And can you tell me the substance of the  
8 conversation.

9 A He really was just asking me about what I had  
10 remembered, and things like that.

11 Q What did you tell him?

12 A Well, I told him I didn't really remember too much  
13 about what happened.

14 Q Did you talk with anyone else besides John?

15 A No.

16 Q Have you reviewed any documents?

17 A No.

18 Q Did you listen to any audio tapes?

19 A The 911 call was played for me.

20 Q Who played that for you?

21 A John.

22 Q When did he play that for you?

23 A Today.

24 Q Did you also previously today talk to John about  
25 your testimony?

1 A He called me on the phone to set up some kind of  
2 meeting, that he wanted me to come in for a  
3 deposition or that you wanted me to come in for a  
4 deposition. It was a short conversation.

5 Q Did you also go through the facts in that  
6 conversation?

7 A Not really, no.

8 Q Can you give me your full name.

9 A Alan Rose.

10 Q What is your permanent residence address?

11 A City of Toledo, 438 Hayes.

12 Q What's your date of birth?

13 A 4-10-1955.

14 Q And your place of birth?

15 A Toledo.

16 Q And are you registered to vote?

17 A Yes.

18 Q What's your educational background?

19 A Just have a GED.

20 Q And are you presently employed?

21 A Yes.

22 Q Can you tell me where?

23 A City of Toledo.

24 Q What do you do for the City of Toledo?

25 A I'm a water treatment operator out at the water

1 plant.

2 Q What does that entail?

3 A That entails bringing the water in, putting  
4 chemicals in it, processing the water, and cleaning  
5 it.

6 Q Have you ever been convicted of a felony or a  
7 misdemeanor?

8 A No felonies, probably a misdemeanor.

9 Q Do you recall when that occurred?

10 A I think I had one a couple years ago. It happened  
11 to be a dispute with me and she's now an ex-wife,  
12 wife at the time.

13 Q Was it domestic?

14 A Yes. It had something to do with an argument at  
15 the home.

16 MR. MADIGAN: I'm going object unless  
17 it relates to a theft offense.

18 Q Was it like disorderly conduct or something?

19 A It was something like that.

20 Q Have you also been convicted of aggravated  
21 menacing?

22 A I may have years and years ago, I may have.

23 Q Would that have been in 2004?

24 A It's possible.

25 Q Have you ever had a civil protection order placed

1 against you?

2 A Yes.

3 Q Can you tell me when.

4 A I'm going to say 2010 when me and my wife were  
5 going through a divorce.

6 Q Did that result out of the same incident?

7 A Yes.

8 Q Prior to that incident, did you ever apply for a  
9 concealed carry permit?

10 A Yes.

11 Q Were you granted a concealed carry permit?

12 A I've had a concealed carry permit for nine years  
13 now.

14 Q Do you have one presently?

15 A Yes, sir. It's in my wallet.

16 Q Did you apply for your concealed carry permit  
17 almost as soon as the law was enacted?

18 A It wasn't too much after the law, yes.

19 Q So you've renewed it?

20 A Yes, it's been renewed.

21 Q Have you ever been denied a concealed carry  
22 permit?

23 A No. I will go ahead and add this. When me and my  
24 wife was having the problems, I couldn't stop her  
25 from going down and saying whatever she wanted to,

1 and put that protection order against me. The  
2 sheriff did send me a letter to return the license,  
3 I did return the license. When the case was over  
4 and there was nothing about it, you know, I was  
5 told to go pick it back up.

6 Q So they suspended it for the timeframe?

7 A Just for the time period pending the outcome.

8 Q Have you ever been in the military?

9 A No.

10 Q What is your understanding of your rights to carry  
11 a firearm?

12 A My understanding is if I have a concealed carry  
13 permit, I'm allowed to carry a handgun, but I  
14 have to keep it concealed. And there are certain  
15 places where I can't carry the handgun, just as in  
16 here, Government Center, or somebody has a sign  
17 posted.

18 Q Are you aware of the rules and regulations that  
19 apply to open carry?

20 A No, I wasn't I should say.

21 Q Are you aware today?

22 A Yes.

23 Q How did you become aware?

24 A After this incident -- well, the police officer at  
25 the end of this incident, the police officer

1        notified me that it is okay, I told him okay, and  
2        then I also went in -- maybe not that day, but I  
3        did when I got on the computer checked it out,  
4        found out it is legal.

5 Q        And that was after the incident with  
6        Mr. Northrup?

7 A        Up until that I didn't know it was legal.

8 Q        Have you ever been on probation?

9 A        I'm going to say years ago when I was younger.

10 Q        Now, did you make a 911 call to the police about  
11        my client carrying a firearm?

12 A        Yes.

13 Q        Can you tell me where you were when you noticed he  
14        was carrying a firearm.

15 A        I had seen him walking around prior to that day  
16        carrying it out in the open a few times. When I  
17        did make the call, I was at a friend's house,  
18        she lives on Rochelle. She was telling me how  
19        the young kids, the grand kids were asking her  
20        about this gentleman carrying a gun around out in  
21        the open, and saying, well, he's not a police  
22        officer, Grandma, what's he carrying a gun around  
23        for. So that's kind of where this whole thing got  
24        started.

25 Q        So prior to calling the police, you had seen my

1 client walking around the neighborhood?

2 A Yes.

3 Q And he was openly carrying?

4 A Yes.

5 Q At any time did he threaten you?

6 A No.

7 Q At any time did he inappropriately handle his  
8 firearm?

9 A No. I never seen him take it out of the  
10 holster.

11 Q Do you recall how many times you saw him  
12 around the neighborhood?

13 A I'm going to say a couple.

14 Q Now, you live on Hayes, right?

15 A Yes.

16 Q He walks by Hayes frequently?

17 A Yes.

18 Q At least he did that summer?

19 A Yes, he did.

20 Q Now, were you riding a motorcycle when you first  
21 saw him on the day you called the police?

22 A I had my motorcycle when I was at my friend's  
23 house who I told you, that I was talking about, I  
24 had the bike, yes.

25 Q You weren't driving the bike when you first

1       encountered my client?

2 A       No. I was -- me and her were in the driveway. I  
3       had rode the bike over there, parked it in the  
4       driveway, it was nice outside.

5 Q       What driveway would that be?

6 A       A friend of mine's.

7 Q       What's the address?

8 A       I'm going to only be guessing here, I think  
9       40 Rochelle, 20 Rochelle, I'm not sure what her  
10      address is.

11 Q      Are you familiar with the intersection of Dalton  
12      and Rochelle?

13 A      Yes.

14 Q      How far is it from there?

15 A      It's right there.

16 Q      Did you drive your motorcycle by my client, turn  
17      around in the convenience store, and come back?

18 A      No. .

19 Q      You did not get off your motorcycle and then  
20      proceed to the side of the convenience store, and  
21      yell to them?

22 A      No. I was already at her house with my bike  
23      parked. I had been there for several minutes  
24      talking to her when your client walked by. I never  
25      got back onto my bike until I went home.

1 Q So your testimony would be that you were in the  
2 driveway with your friend; is that correct?

3 A Yes.

4 Q What is your friend's name?

5 A Debbie Wise.

6 Q Can you spell her last name.

7 A W-i-s-e.

8 Q Do you know her phone number?

9 A I'm not sure of her phone number. Her and her  
10 husband have now moved to Missouri because of his  
11 job. He worked for Ford, and he was laid off here  
12 and now he's in Missouri.

13 Q Do you know where in Missouri?

14 A I think she told me Liberty.

15 Q Do you know when they moved?

16 A No. Sometime last summer, end of summer, I'm not  
17 sure.

18 Q You understand -- did John tell you when he was  
19 talking with my client, he said you passed him on  
20 your motorcycle; did he tell you that?

21 A I think there was something about me riding the  
22 motorcycle.

23 Q And that you came back around from the convenience  
24 store and parked your motorcycle. Did John tell  
25 you that?

1 A No. John didn't ask me anything about what I was  
2 riding.

3 Q But you were riding your motorcycle that day,  
4 correct?

5 A I was riding my motorcycle that day.

6 Q You have a Harley?

7 A Yes.

8 Q What kind of Harley?

9 A Just a Harley Springer.

10 Q So how close to the convenience store parking lot  
11 was your friend's house?

12 A There's the convenience store parking lot,  
13 heading north there's one house, she's the second  
14 house.

15 Q Can you tell me as you saw my client, what you  
16 did.

17 A As I saw your client?

18 Q Yes.

19 A Well, my friend was talking to me when she seen  
20 him coming around the corner, and I think he was  
21 coming off of Dalton and turning on to Rochelle  
22 walking. She started telling me about the gun  
23 and the kids, how it had bothered the kids, and  
24 how in the past it had bothered some neighbor's  
25 kids.

1           So I walked out there because I was curious  
2           about carrying his gun in the open. So I went out  
3           there just to ask him about what's with carrying  
4           the gun out in the open. I mean, I have a permit,  
5           I always keep mine concealed. I didn't have one on  
6           me that day, but I went out there to ask him about  
7           it.

8 Q       Did you yell to him and tell him you can't carry  
9           like that?

10 A       I don't think I said that, no.

11 Q       Well, that's what my client said you said and his  
12           wife, so you would dispute that, correct?

13 A       I think I would probably dispute that because I  
14           don't know the facts about carrying a gun out in  
15           the open.

16 Q       That's not my question. Did you say to him, you  
17           can't carry it like that?

18 A       I don't remember saying that.

19 Q       Do you remember what you said to him then?

20 A       This is going to be kind of hard to say what I  
21           said to him because I don't have the advantage  
22           of -- I didn't think that this was ever going to  
23           come back and I would have to answer a question  
24           about it. I think I asked him -- now I'm not  
25           saying I did -- I think I asked him about him

1 carrying the gun out in the open, what was that  
2 about. And I'm saying that because that was my  
3 whole reason to go talk to him.

4 Q And did his wife answer you?

5 A I don't believe I heard her say anything.

6 Q So you believe my client responded to you?

7 A I don't remember if he said anything, but the  
8 thing that I do remember about it, he was like  
9 standoffish, like he wasn't going to discuss it  
10 with me.

11 Q So he didn't talk to you?

12 A Because I can't remember what was said, I don't  
13 know if he said any short thing to me, but I know  
14 he was standoffish and didn't want to talk to me  
15 about it.

16 Q Do you know what his wife said to you?

17 A I don't remember his wife saying anything.

18 Q So there was no conversation, just walked by you;  
19 is that what happened?

20 A Yeah. He just wanted to keep on going on his  
21 way.

22 Q So you didn't call him any names, didn't swear?

23 A If anything like that was said, I don't remember.

24 Q So you didn't curse at him?

25 A If that happened, I don't remember.

1 Q And you don't remember him saying you can carry  
2 open in Ohio?

3 A I certainly don't remember him saying that.

4 Q Do you remember anybody saying that?

5 A No.

6 Q So you basically didn't have a conversation?

7 A I'll tell you what. I can't sit here and honestly  
8 tell you everything -- like I told John, I didn't  
9 think this was going to come back and be something  
10 I was going to be asked about. After that day, I  
11 thought it was over with, but it was such a nothing  
12 kind of conversation, that after the police officer  
13 called me back and told me that it's legal for him  
14 to do that, I forgot the whole incident.

15 Q And do you remember arguing with the police  
16 officer?

17 A No.

18 Q So when the police officer said you also disputed  
19 you could carry open in Ohio, you don't remember  
20 that; is that correct?

21 A The police officer said what?

22 Q That you argued with him about carrying openly in  
23 Ohio; that would be incorrect also?

24 A You're saying the police officer said that to me?

25 Q Yes, on the telephone conference.

1 A That I argued with him about that?

2 Q Yes.

3 A I would have to hear that conversation, but I  
4 don't know if I argued with him or if I disagreed  
5 with open carry?

6 Q Well, did you tell him you disagreed with open  
7 carry?

8 A Again, without hearing any of the conversations, I  
9 don't remember, but knowing me I would think that I  
10 may have told him -- if I did say anything like  
11 that, it would be more like I may have disagreed  
12 with open carry.

13 Q Why did you call 911 if you didn't have any kind  
14 of a conversation or dispute with my client?

15 A Because I didn't know it was lawful to carry your  
16 gun on the side like that, and it seemed to be  
17 bothering the kids in the neighborhood. And I  
18 thought, well, in order for me to find out about  
19 this, I need to call and have the police -- I mean,  
20 because your client made absolutely no effort to  
21 want to talk to me and say, this is my right, this  
22 is your right, this is our right.

23 Q How would you react if somebody confronted you and  
24 said you can't carry like that?

25 A I would try to explain to them that according to

1 the law, if I was doing that, yes, you can do it.

2 I would try to inform them.

3 Q Let me just explain to you that both my client and  
4 his wife are going to testify that they tried to  
5 explain that to you, and your testimony is that  
6 that would be incorrect; is that right?

7 A Well, I can't help what your clients are going to  
8 say. I mean, I don't even know if -- if they  
9 stopped, they stopped for a second and they kept on  
10 going, and they just blew me off.

11 Q Do remember my client asking you whether you were  
12 a police officer?

13 A He never asked me if I was a police officer. He  
14 knew damn well I wasn't a police officer.

15 Q So your testimony is that his wife did not say to  
16 you that it's okay to carry in Ohio; is that  
17 correct?

18 A I'm just saying I don't remember if his wife said  
19 anything, but I don't remember her saying  
20 anything.

21 Q Just so you and I are clear, if she testifies that  
22 she said that, you don't dispute it, you just don't  
23 remember it; is that correct?

24 A I don't remember it, so I don't think I could  
25 really dispute it.

1 Q When you called 911, did you tell them you didn't  
2 want to send a crew out?

3 A I think when I was talking to 911, I told them  
4 about a guy carrying a gun out in the open. As I  
5 understand it, the woman said maybe he could do  
6 that. I'm like, if he can do that, then there's no  
7 use sending -- I wouldn't be interested in sending  
8 the police out, but then I believe that she didn't  
9 know.

10 Q John played you the 911 tape; do you recall  
11 that?

12 A I believe she didn't know. So since she didn't  
13 know --

14 Q Why don't I play you the 911 tape.

15 A Go ahead and play it.

16 Q Did he play it for you?

17 A Yeah.

18 Q Do you recall that she told you it was okay if he  
19 had a concealed carry permit? If you don't  
20 remember that's okay, I'll play it for you.

21 A Go ahead and play it for me.

22 (The following 911 recording played:)

23 DISPATCHER: 911.

24 CALLER: Yeah, I have a guy  
25 walking down the street here carrying a

1 gun out in the open.

2 DISPATCHER: Where is this?

3 CALLER: It's on Rochelle. He's  
4 walking a dog.

5 DISPATCHER: Is it a rifle or a  
6 handgun?

7 CALLER: A handgun, and he's  
8 telling me it's legal to carry out in the  
9 open.

10 DISPATCHER If you have a CCW.

11 CALLER: You don't have to  
12 conceal it?

13 DISPATCHER: I'll get a crew out  
14 though. Is he white, black, or Hispanic?

15 CALLER: I'm not going to call a  
16 crew out if it's legal to carry a gun out  
17 in the open.

18 DISPATCHER: Because I'm not an  
19 officer.

20 CALLER: All right. He's white.

21 DISPATCHER: And you said he's  
22 walking his dog?

23 CALLER: Yeah, on Rochelle Drive.

24 DISPATCHER: All right. Got them  
25 notified.

1                   CALLER:           Okay. I'll be watching  
2   the guy.

3                   DISPATCHER:        Okay. Bye-bye.

4   (End of 911 recording.)

5 Q           Was that you on the tape?

6 A           Yes.

7 Q           Would you agree that that truly and accurately  
8   depicts your call with the 911 operator?

9 A           Yes.

10 Q          Does that refresh your recollection?

11 A          Yes.

12 Q          Now, did you wish to send a crew out?

13 A          Did I wish? Yes, I believe I did because she  
14   sounded like she wasn't sure because she's not a  
15   police officer.

16 Q          So your interpretation was she's not a police  
17   officer, so I'll send a crew out; is that right?

18 A          It sounded like to me she didn't really know the  
19   law.

20 Q          You didn't either, right?

21 A          No.

22 Q          Now, at the time that you encountered my client,  
23   who was with him?

24 A          I'm going to assume here that it was his wife and  
25   child, a woman and a child.

1 Q Do you remember whether there was one or two  
2 children?

3 A That's a good question because I never thought no  
4 more about it after that day. Two.

5 Q Were they riding their bikes or were they  
6 walking?

7 A I'm having a hard time remembering if there was  
8 exactly two. I know there was one, I think it was  
9 a little girl. So I'm going to have to say I don't  
10 know.

11 Q Do you remember whether the little girl was riding  
12 a bike or was she walking?

13 A I'm just going to say I saw a child walking and I  
14 don't remember anything after that.

15 Q Did they have an animal with them?

16 A A dog, I guess.

17 Q So there were at least three people that you  
18 recall; is that correct?

19 A There was three or four.

20 Q And at the time you saw them, what were they  
21 doing?

22 A Just walking.

23 Q And did you engage them first or did they engage  
24 you?

25 A I walked out to talk to them to ask them about

1 handgun wearing in the open.

2 Q So you went to engage them; is that correct?

3 A Yes.

4 Q At any time prior to you engaging them, had they  
5 done anything that was suspicious to you?

6 A No.

7 Q Did they commit any crime that you know of?

8 A No.

9 Q After they went by you, were they hostile toward  
10 you?

11 A I don't remember what the gentleman said to me. I  
12 don't remember if it was hostile or not.

13 Q Were you hostile toward them?

14 A I don't remember what I said to them other than  
15 asking about the gun.

16 Q Do you recall whether you yelled?

17 A No, I don't remember.

18 Q Do you recall whether you cursed?

19 A If I did, I don't remember.

20 Q Is cursing part of your normal vocabulary?

21 A I try not to make it.

22 Q Is it though?

23 A It's not normal.

24 Q At any time as they're walking by, did you feel  
25 threatened?

1 A No.

2 Q So after they walked by, they just continued to  
3 walk; is that correct?

4 A Yes.

5 Q You live on Hayes; is that correct?

6 A Yes.

7 Q And on occasion did they walk by your house as  
8 well?

9 A Yes.

10 (Plaintiff's Exhibit 1 marked.)

11 Q Mr. Rose, I'm going to hand you what's been  
12 marked Rose Exhibit Number 1. Take a minute to  
13 look at that. Have you had an opportunity to look  
14 at it?

15 A Yes.

16 Q Is that the intersection of Rochelle and Dalton?

17 A Yes, it appears to be.

18 Q On the left-hand side is the convenience store and  
19 the parking lot?

20 A Yes.

21 Q The second driveway is where you were; is that  
22 correct?

23 A Yes.

24 Q It would be the one on the left that has a grey  
25 roof and a little brown storage facility in the

1 back?

2 A No. I believe there's a house here that you can't  
3 see. Her house is the one with the black roof  
4 that's before the house that you mentioned.

5 Q You think there might be one under the trees there  
6 that I just can't see?

7 A Yeah, I think there's a house there.

8 Q So you were in that driveway?

9 A Yes.

10 Q When you first observed my clients, were they  
11 coming down Dalton?

12 A I don't think I seen them until after they turned  
13 the corner, started coming up Rochelle.

14 Q They were on the right side of the road; is that  
15 correct?

16 A Yes.

17 Q It would be the east I think?

18 A Yeah.

19 Q So you were on the west side of the road; is that  
20 correct?

21 A Yes.

22 Q And you never left the driveway, did you?

23 A No.

24 Q You never crossed the street?

25 A No.

1 Q They were walking on one side of the road and you  
2 were on the other?

3 A No, I never left Deb's yard.

4 Q So then you just kind of yelled to them across the  
5 street; is that right?

6 A Yes. I walked down to the end of the driveway  
7 and --

8 Q And yelled to them?

9 A Said something to them.

10 Q Do you recall a yellow 1955 car going by just  
11 before you did that?

12 A A yellow 1955?

13 Q Canary yellow.

14 A I don't believe so, and I don't know that I've  
15 ever seen a car like that in the neighborhood.

16 Q A pickup truck I believe it was.

17 A I don't remember that.

18 Q Would you say that by the time they were past that  
19 driveway, perhaps the next driveway, your encounter  
20 with Mr. Northrup was completed?

21 A Yes, because he was making no effort to explain to  
22 me about the right to carry the gun. So, I mean, I  
23 don't think he even stopped walking while I was  
24 talking to him. He didn't want to talk to me about  
25 it, and so I seen it was of no use, so I stopped

1 and walked back up to my friend Deb's. We was  
2 standing up by her house, on the side of her  
3 house.

4 Q Is that when you called the police?

5 A I was really curious about carrying the gun in the  
6 open and I wanted to find out about it, and that's  
7 when I called the police, went in her house and  
8 called the police.

9 Q So you think you called the police to get  
10 information about criminal activity?

11 A I don't know if you're trying to put me in some  
12 kind of a trick here or something, but I didn't  
13 think the guy was doing anything criminal, but I  
14 didn't know if it was legal to carry a gun out in  
15 the open, so maybe that is a criminal act.

16 Q But you believed it was not right at the time you  
17 called them?

18 A I didn't know, and I would like to have the police  
19 inform me.

20 Q You don't call 911 -- you understand 911 is an  
21 emergency line, correct?

22 A Yes. Well, I don't know, I didn't take the time  
23 to look up another police number.

24 Q I understand. As far as I can tell from your  
25 testimony, there wasn't any crime going on and

1       there wasn't anything going on except him walking  
2       down the road with his kids; is that right?

3 A       Yes.

4 Q       You tried to engage him and you're saying he  
5       didn't engage you; is that correct?

6 A       That's absolutely correct.

7 Q       You don't recall whether his wife engaged you,  
8       right?

9 A       I don't remember her, no. I mean, I'm at the  
10      disadvantage here. These folks evidently can  
11      remember this stuff because they have an agenda  
12      here. And as far as I was concerned, the whole  
13      incident was nothing, it was over, and I didn't  
14      think no more about it.

15 Q       In fact, you had the agenda; did you not? They  
16      didn't have any, they were walking down the road,  
17      weren't they?

18 A       My agenda was just for someone to give me the  
19      knowledge of whether it was right or wrong.

20 Q       How long have you been carrying a firearm?

21 A       I think I've had a permit for about nine years. I  
22      don't carry it that much, but I have the permit to  
23      carry it.

24 Q       How long have you owned a firearm?

25 A       Longer than that, I don't know, 20 years.

1 Q Do you belong to any organizations like the NRA or  
2 anything?

3 A No.

4 Q Are you a hunter?

5 A No.

6 Q So you're more of a sports shooter?

7 A No. I do go out and target shoot, but my whole  
8 purpose for when I got involved in getting a gun is  
9 just for self protection around the home.

10 Q Do you believe that's important?

11 A With what's going on in society, yes.

12 Q So you think it's important that you should be  
13 able to be armed to defend your home?

14 A Yes.

15 Q Do you carry concealed sometimes?

16 A Sometimes.

17 Q What makes you decide when you're going to carry  
18 concealed?

19 A That's a very good question. I don't think I have  
20 a reason whether I'm going to or not.

21 Q You just carry it when you feel like it?

22 A I don't consciously think that I have a reason  
23 when I leave the house and I carry the gun.

24 Q So sometimes you carry?

25 A Yes.

1 Q And you took the steps so that you would be  
2 permitted to carry in Ohio, correct?

3 A Yes.

4 Q You took the class work, correct?

5 A Yes.

6 Q Do you go to any of the conceal carry websites and  
7 look at their information?

8 A No.

9 Q After this incident, you said you went and did  
10 some research on the Internet; is that right?

11 A I went on there to look up about open carry in  
12 Ohio.

13 Q What did you find out?

14 A I found out that you can do it.

15 Q Have you ever done it since then?

16 A No. I was just curious after the police told  
17 me, went on there to look, to double check, found  
18 out it was, and found -- that was the end of it  
19 for me.

20 Q Let me see if you and I can agree on this. When  
21 you called the 911 operator, you believed that you  
22 could not carry openly in Ohio; is that right?

23 A I'm going to tell you this again. I didn't know  
24 if you could or couldn't, and that's why I was  
25 looking for someone to tell me if it was legal or

1 not.

2 Q You weren't trying to get my client in trouble  
3 because he ignored you?

4 A No.

5 Q After they left, you figured it was over?

6 A I stayed at Deb's house and they continued on  
7 walking, and I just stayed there. I don't know how  
8 much longer it was, I was still at Deb's house when  
9 the police officer called me back, and then he  
10 explained to me about it. Maybe I did say that I  
11 don't really agree with open carry, but that was  
12 just my opinion, but, you know, if it's the law,  
13 it's the law.

14 Q Well, have you ever done any research on your  
15 Constitutional rights to bear arms in Ohio?

16 A Not really.

17 Q You don't personally know my client?

18 A No.

19 Q You don't know his wife?

20 A No.

21 MR. ELLIS: I don't have any more  
22 questions. Thank you. That's it.

23 MR. MADIGAN: Alan, you have the right  
24 to read this deposition over after it's  
25 typed up, and maybe make any corrections

1                   or changes or whatever to it. If you want  
2                   we can do that, or you can waive it and  
3                   say, no, I'll go with whatever is on  
4                   there.

5                   THE WITNESS:        I'll waive it.

6                   (Deposition concluded at 2:24 p.m.)

7                   (Signature waived.)

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1 C E R T I F I C A T E

2 STATE OF OHIO )  
3 COUNTY OF LUCAS ) SS.

4 I, Vicki L. Plant, Court Reporter and  
5 Notary Public for the State of Ohio, do hereby certify  
6 that ALAN ROSE was by me first duly sworn; that the  
7 testimony given was reduced to stenotype; that the  
8 foregoing is a true and correct transcript of the  
9 testimony so given; that this deposition was taken at  
10 the time and place in the foregoing caption specified.

11 I do further certify that I am not a  
12 relative, employee, or attorney of any of the parties  
13 or counsel employed by the parties hereto or  
14 financially interested in this action, nor am I or the  
15 court reporting firm with which I am affiliated under a  
16 contract as defined in Civil Rule 28(D).

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand and affixed my notarial seal of office at Toledo,  
19 Ohio, this 14th day of February, 2014.

20  
21   
22



23 VICKI L. PLANT  
24 Notary Public in and for the  
State of Ohio

25 My Commission expires August 17, 2016.